IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 25569 of 2000

Between:

K.Sivarama Prasad, S/o. Subbaiah.
R/o. Gudivada, Tenali Mandal,
Guntur.

..... PETITIONER

AND

1 The District Level Committee, Rep. by its District Revenue Officer, Guntur.

2 Primary Agricultural Cooperative Society, Rep. by its President. Malakapuram, Guntur.

3 The District Cooperative Officer, Guntur.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ declaring the action of the Respondent 1 and 2 in dismissing the Petitioner from service as illegal, unconstitutional and arbitrary and to issue a consequential direction to the Respondents to reinstate the Petitioner into service with back wages and all other benefits.

Counsel for the Petitioner: MR.V.SRINIVAS

Counsel for the Respondents: GP FOR COOPERATION

The Court made the following:

ORDER

Heard Mr.V.Srinivas, learned counsel appearing for the petitioner and also learned Government Pleader appearing for Co-operation.

The petitioner who is working as Paid Secretary with the 2nd respondent society, filed this Writ Petition *inter alia* seeking for a mandamus challenging the validity and correctness of the impugned order in Rc.No.1076/99,dated 18-5-1999 where under he was dismissed from service as per the resolution of the committee dated 15-3-1999.

The case of the petitioner in brief is that he worked as Paid Secretary for some time with good track of record. Due to ill-health he has to apply for leave and thereafter he reported for duty on 11-5-1999.But the petitioner was not permitted to join the duty and ultimately the petitioner was informed about the aforesaid impugned order where under his services are sought to be dismissed.

The learned counsel appearing for the petitioner submits that even a reading of the impugned order and especially in view of the nature of allegations as made against the basis for such dismissal, it is necessary to contemplate the enquiry by giving proper opportunity to the petitioner as contemplated under the law and any such dismissal with imputation without giving proper opportunity is wholly unsustainable.

The learned Government Pleader appearing for the respondents sought to sustain the order and it is only due to serious allegations made against the petitioner, the impugned orders are passed and he was rightly dismissed from service.

Having considered the submissions made and on perusal of record, it is relevant to extract the impugned orders passed which is as follows:

> "Whereas it is reported in the reference 1st cited that Sri K.Sivaram Prasad, Secretary of Malkapuram P.S.C.S. has drawn loans of Rs.89,000/- in respect of 11 Ryots of the society by forging the signature and L.T.I. of them. In the reference Vth cited 4 Ryots of Inavolu village through legal otices complaints that irregular loans of

Rs.39,000/- was drawn by the Secretary in their names and used the same for his personal benefits. Another 20 Ryots of Malkapuram P.S.C.S. through petitioners reported that the Secretary has drawn enhanced loans of Rs.2,47,000/- and were paid Rs.1,53,750/-. The difference of such enhancement of loan relating to them amounting to Rs.93,250/- was misappropriated by the Secretary of the Society. Thus the Secretary has misappropriated on the above counts is about 3.39 lakhs.

Whereas the Managing Committee in the reference 2nd cited has informed that it resolved in its meeting held on 15-3-1999 to dismiss Sri K.Siva Rama Prasad from the post of Secretary of Malkapuram P.A.C.S. as per the provisions of byelaw No.12 subject to the approval of District Committee.

The action of dismissal of SriK.Siva Rama Prasad from the Post of Secretary of Malkapuram P.A.C.S. resolved in the Managing Committee meeting dated 15-3-1999 is hereby approved."

On a reading of the aforesaid order it is quite clear that the dismissal of the petitioner is not simplicitor. Having regard to the allegations made in the very order itself, there is nothing on record to show that there was any enquiry. Even according to the petitioner, there was no notice nor charge sheet nor any enquiry was conducted and no opportunity was provided at any stage and the impugned order was passed on the basis of the resolution passed on 15-3-1999. It is also without any notice or opportunity much less any intimation.

Admittedly there is no enquiry in respect of the allegations or the basis made for dismissal of the petitioner. It is too late in the day to say that the Management can take recourse the said proceeding without proper enquiry which is not only opposed to the Principles of Natural Justice but also contrary to the very Rules and Regulations applicable to the employees.

In the circumstances, the Writ Petition is allowed and the impugned order is set aside. It shall be open for the respondents to initiate fresh proceedings and take appropriate action in accordance with law after giving proper notice and opportunity and conducting enquiry as contemplated under the law. No costs.

10-02-2005.

Hsd

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice, on this Thursday, the Tenth day of February, 2005.

Asst. Registrar

To

1 The District Revenue Officer, District Level Committee, Guntur.

2 The President, Primary Agricultural Cooperative Society, Malakapuram, Guntur.

3 The District Cooperative Officer, Guntur.

4. 2 C.Cs to G.P. for Co-operation, High Court Buildings, Hyderabad (OUT)

5. 2 C.D. copies.